

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>		EFFECTIVE DATE 09/20/2013	NUMBER 01.01.140
SUBJECT INTERNAL AFFAIRS		SUPERSEDES 01.01.140 (06/30/2008), DOM 2013-13, DOM 2013-18	
		AUTHORITY 791.203	
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## POLICY STATEMENT:

The Internal Affairs Division is a vital component of an integrated investigative system within the Department, complementing the investigative staff at the work site and the administrative investigative responsibilities of the Budget and Operations Administration.

## RELATED POLICIES:

- 02.03.100 Employee Discipline
- 02.03.109 Discriminatory Harassment
- 03.02.130 Prisoner/Parolee Grievances
- 03.03.140 Prohibited Sexual Conduct Involving Prisoners

## POLICY:

### GENERAL INFORMATION

- A. For purposes of this policy only, but in no way confers any co-employer status. "Employee" refers to employees of the Department and includes: vendor employees, visitors and volunteers.
- B. For purposes of this policy, the work site administrator shall be the Warden or, for non-institutional sites, the highest ranking supervisor, except that in Central Office the work site administrator shall be the appropriate Executive Policy Team (EPT) member.
- C. The Manager of the Internal Affairs Division shall review all cases, including the Prison Rape Elimination Act (PREA) and discriminatory harassment related cases. The Internal Affairs Manager shall also coordinate the investigation of all cases under the jurisdiction of the Internal Affairs Division which are referred to the Michigan State Police or a local law enforcement agency for criminal investigation. All Department employees shall assist and cooperate with Internal Affairs and law enforcement staff conducting an investigation and ensure a prompt and thorough response is provided to any request made relating to the investigation, consistent with Department policy. This provision is not intended to place any duty on an employee contrary to state or federal law, or to limit an employee's right under a collective bargaining unit agreement, or Civil Service Commission rule.

### CASES WITHIN THE JURISDICTION OF THE INTERNAL AFFAIRS DIVISION

- D. The Internal Affairs Division has jurisdiction to investigate the following allegations against employees:
  - 1. Staff sexual misconduct, which is defined as a sexual act directed by an employee toward an offender, including any of the following:
    - a. An attempted, threatened, or requested sexual act or helping, advising, or encouraging another employee to engage in a sexual act.
    - b. The intentional touching, either directly or through clothing, of an offender's genitals, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify the sexual desire of any person.

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- c. Invasion of privacy for sexual gratification, indecent exposure, or voyeurism.
- 2. Staff overfamiliarity, which is defined as conduct between an employee and an offender which has resulted in or is likely to result in intimacy, including but not limited to a kiss or a hug, or a close personal or non-work related association.
- 3. Conduct which, if found to be true, would constitute a felony or misdemeanor, including a violation of MCL 257.625 "Operating a Motor Vehicle While Intoxicated or Visibly Impaired"; this does not include traffic misdemeanors.
- 4. Infraction of a work rule or policy where the magnitude is such that the integrity of the Department has been undermined.
- 5. Conduct which, if found to be true, would likely result in the employee being discharged from employment pursuant to PD 02.03.100 "Employee Discipline".
- 6. Employee allegations of discriminatory harassment. Allegations involving violations of civil rights or collective bargaining unit contract provisions shall be administered by the labor relations section in the Budget and Operations Administration (BOA).
- E. The Internal Affairs Division also has jurisdiction to investigate the following if it is determined, after review by the Manager of the Division, to potentially involve employee misconduct:
  - 1. Death of an incarcerated offender unless the death was due to natural causes; however, a death due to natural causes falls within the jurisdiction of the Internal Affairs Division if the death occurred under unusual circumstances.
  - 2. An escape or attempted escape.
  - 3. An incident considered "high profile" or capable of drawing substantial media attention.
- F. Generally, allegations concerning the conduct of offenders are not investigated by the Internal Affairs Division unless it involves allegations of employee misconduct which fall within the jurisdiction of the Division. The Chief Deputy Director, however, may assign the Internal Affairs Division to lead or assist in any Department investigation involving offender conduct. All allegations of prisoner misconduct are to be administered in conformance with PD 03.03.105 "Prisoner Discipline".

#### REFERRAL OF CASES TO INTERNAL AFFAIRS DIVISION

- G. All allegations of employee misconduct and PREA related allegations shall be entered in the Allegations Investigation Personnel Action System (AIPAS) by the work site administrator or designee. This includes new allegations made during the course of an investigation and allegations by offenders, whether verbally or in writing, provided the allegations contain facts rather than mere assertions or rumor. All discriminatory harassment allegations shall be entered in AIPAS by the work site administrator or designee and referred to the Equal Employment Opportunity (EEO) office for preliminary review. If questions arise whether a case should be entered into AIPAS the work site administrator or designee shall contact the Internal Affairs Manager.
- H. The work site administrator or designee shall immediately notify the appropriate EPT member or designee (by phone, pager, or e-mail), including after normal business hours, if an employee is alleged to be involved in criminal activity of a major magnitude; e.g., a death; sexual assault. The EPT member or designee shall similarly immediately notify the Internal Affairs Manager.
- I. Any written documentation provided by an offender regarding employee misconduct shall be forwarded to the Internal Affairs Division and/or the PREA Section.

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- J. Pursuant to Paragraph G, all discriminatory harassment allegations shall be entered in AIPAS by the work site administrator or designee as soon as possible but no later than 7 calendar days after receipt of the allegation. Whenever an employee has been suspended as a result of the alleged conduct, a copy of the stop order shall be submitted with the form.
- K. Whenever an employee has been suspended as a result of the alleged conduct, a copy of the stop order shall be sent to the Internal Affairs Division.
- L. If a new allegation is made and entered into AIPAS during the course of an investigation, the investigation shall cease until further direction is received from the Internal Affairs Manager.

#### PROCESSING AND INVESTIGATION

- M. The Internal Affairs Division Manager shall review each allegation entered in AIPAS and make a determination as set forth below. The referring work site administrator or designee shall receive notice in AIPAS of that decision.
  - 1. CFA Facility/FOA Investigation: The case is handled solely by the work site upon completion of the investigation, the disciplinary process is handled at the local level and forwarded to the Department's discipline coordinator for post review. An investigative review by Internal Affairs and Budget and Operations Administration (BOA) is not required. The investigation must be closed within 60 days.
  - 2. Internal Affairs Monitored Investigation: The investigation is handled by the work site on behalf of Internal Affairs. Upon completion of the investigation, all original documents are forwarded to Internal Affairs for review pursuant to Paragraph P. Upon completion of the Internal Affairs review, the Internal Affairs designee will provide the work site a copy of the official investigation to hold a disciplinary conference. The EEO office shall receive a copy of the closing memorandum from Internal Affairs for cases involving allegations of violations regarding work rule #3, "Discriminatory Harassment."
  - 3. Internal Affairs Investigation: Investigation handled solely by Internal Affairs.
- N. Staff outside the Internal Affairs Division who are assigned to investigate an Internal Affairs monitored case shall keep the Internal Affairs Manager informed of all major developments in the investigation in the manner directed by the Manager. Internal Affairs Division staff shall assist with the investigation as deemed appropriate by the Manager in consultation with the work site administrator or designee.
- O. The Internal Affairs Manager shall ensure that all investigations are conducted in a prompt and thorough manner. Investigations of staff overfamiliarity, staff sexual misconduct, staff sexual harassment, and prisoner on prisoner sexual violence shall be investigated consistent with the requirements set forth in PD 03.03.140 "Prohibited Sexual Conduct Involving Prisoners". The Internal Affairs Manager shall keep the Chief Deputy Director, the PREA Administrator, and other appropriate EPT members advised regarding any significant issues that come to the Manager's attention during the investigation.
- P. The staff person assigned to conduct the investigation shall maintain an investigatory file for the case. The file shall contain all documentation related to the investigation, including notes, photographs and recordings made, if any. Upon completion of the investigation, the file shall be forwarded to the Internal Affairs Division along with a written report of the facts established during the investigation. The Internal Affairs Manager shall be responsible for maintaining the official case file once the investigation has been concluded.
- Q. Subject to Paragraph T, the Internal Affairs Manager shall review the investigation report and submit a recommendation to the Chief Deputy Director whether it is believed that there is sufficient evidence to formally charge the employee with a rule violation. The Chief Deputy Director or designee shall make

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the final determination whether charges will be issued in the case and, if applicable, what charges are to be issued. Charges may be amended with the approval of the Chief Deputy Director or designee if it is determined that the employee has not been properly charged.

- R. The Internal Affairs Manager is required to only forward to the Chief Deputy Director those cases for which there is believed to be sufficient evidence to formally charge an employee with a rule violation. Whenever charges are not issued, the Internal Affairs Manager will determine whether there is insufficient evidence or no evidence to sustain the allegations.
- S. The Internal Affairs Manager shall ensure that the appropriate work site administrator is notified in writing whether charges will be issued and, if applicable, the charges to be issued. The Administrator also shall ensure that the employee who was investigated is notified in writing that the investigation was conducted and the disposition of that investigation unless disciplinary charges are to be issued. If disciplinary charges are to be issued, the employee shall receive notice of the charges and a hearing as set forth in PD 02.03.100 "Employee Discipline".
- T. The Internal Affairs Manager shall ensure the data entered into AIPAS is maintained to monitor the status of all cases. Other administrative and management staff shall be advised of the status of each case as determined by the Chief Deputy Director or designee.

#### Sexual Misconduct Review Committee

- U. There shall be a Sexual Misconduct Review Committee, composed of the Internal Affairs Manager, the Office of Equal Employment Opportunity Administrator, the Human Resources Director, the appropriate Deputy Director, and the PREA Administrator. The Committee is responsible for reviewing all completed investigation reports involving staff sexual misconduct prior to referral to the Chief Deputy Director pursuant to Paragraph Q. Cases shall be finalized only with the concurrence of the Committee. If the Committee determines additional investigation is necessary, the follow-up investigation shall be promptly completed, the case updated and resubmitted to the Committee for review, prior to referral or closing as appropriate.

#### OPERATING PROCEDURES

- V. The appropriate Deputy Directors, the Internal Affairs Manager, and Wardens shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive. Procedures shall be completed within 60 calendar days after the effective date of this policy directive. This includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed. Facility procedures shall not conflict with procedures issued by the Director.

#### AUDIT ELEMENTS

- W. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: DHH 9/4/13